

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EPICE CORPORATION,

Plaintiff,

V.

THE LAND REUTILIZATION
AUTHORITY OF THE
CITY OF ST. LOUIS, et. al.,

Defendants.

Case 4:07CV00206 HEA

DEFENDANTS, THE LAND REUTILIZATION AUTHORITY OF THE CITY OF ST. LOUIS, MISSOURI AND THE CITY OF ST. LOUIS, MISSOURI, MOTION FOR LEAVE OF COURT TO FILE MOTION FOR SUMMARY JUDGMENT REGARDING COUNT I OF PLAINTIFF'S FOURTH AMENDED COMPLAINT

Comes now Defendants, the Land Reutilization Authority of the City of St. Louis, Missouri, the City of St. Louis, Missouri (hereinafter, “Defendants”), and for their *Motion for Leave of Court to File Motion for Summary Judgment Regarding Count I of Plaintiff’s Fourth Amended Complaint*, state the following:

1. In the Court’s Opinion, Memorandum, and Order of December 4, 2009 (Doc. 145) (hereinafter, “*Court’s Order*”), the Court ordered that Defendants’ “Motion for Partial Summary Judgment [] is granted as to Counts I, II and IV and denied on Count III.”. (*Court’s Order*, pg. 24).

2. Defendants subsequently filed a Motion to Amend the Court's Order on December 31, 2009. (doc. 148).

3. In the Court's June 10, 2010 Opinion, Memorandum, and Order (doc. 177), the Court stated that the separate issue of whether Plaintiff was paid just compensation for any

interest it had in the property remains pending, as Defendants did not address it.

4. Defendants respectfully request the Court to allow it to file its Motion for Summary Judgment regarding Count I of Plaintiff's Fourth Amended Complaint. Defendants mistakenly believed that the Court's Order dismissed all Plaintiff's claims, with the exception of Count III of Plaintiff's Fourth Amended Complaint. Regarding Count III, Defendant, City of St. Louis, Missouri, has filed a pending motion for summary judgment. (Please see Docs. 166, 167, 167-2, 167-3 and 167-4).

5. Defendants believe that there are no undisputed material issues of fact and the law is clear regarding the remaining "just compensation" issue in Count I of Plaintiff's Fourth Amended Complaint. Defendants contend that this is a claim that can be resolved pursuant to summary judgment as the law is clear and material facts are not in dispute.

WHEREFORE, Defendants, the Land Reutilization Authority of the City of St. Louis, Missouri, pray that this Court grant its Motion for Leave of Court to File Motion for Summary Judgment Regarding Count I of Plaintiff's Fourth Amended Complaint, and for all other relief this Court deems just and proper.

Respectfully Submitted,

PATRICIA A. HAGEMAN,
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/s/ Robert M. Hibbs
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CERTIFICATE OF SERVICE

A copy of the foregoing was filed electronically on the 6th day of July, 2010, with the Clerk of Court to be served by operation of the Court's electronic filing system upon all parties of record.

/s/ Robert M. Hibbs
Robert M. Hibbs #537348